

HAWAIIAN HOMEOWNERSHIP OPPORTUNITY ACT OF 2006

SEPTEMBER 28, 2006.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. OXLEY, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 5851]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5851) to reauthorize the programs of the Department of Housing and Urban Development for housing assistance for Native Hawaiians, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 5851, the Hawaiian Homeownership Opportunity Act of 2006, reauthorizes Title VIII of the Native American Housing Assistance and Self-Determination Act (NAHASDA), a program ad-

ministered by the Department of Hawaiian Home Lands (DHHL) that provides low-income native Hawaiian families the opportunity for homeownership on Hawaiian home lands.

BACKGROUND AND NEED FOR LEGISLATION

The Native American Housing Assistance and Self-Determination Act of 1996 reorganized the system of housing assistance provided to Native Americans through the U.S. Department of Housing and Urban Development (HUD) by eliminating several separate programs of assistance and replacing them with the Indian Housing Block Grant. In 2000, NAHASDA was amended to include Title VIII so that DHHL can directly receive this block grant funding, which it uses for improving lands in order to facilitate Hawaiian homeownership.

The Hawaiian Home Commission Act (HHCA) was enacted by Congress in 1920 to assist the race of Native Hawaiian people by providing government land to re-establish Native Hawaiian communities. In order to qualify for a lease on the approximately 200,000 acres of Hawaiian home lands set aside by Congress, eligible applicants must have at least 50 percent quantum of Native Hawaiian blood. The HHCA operated under federal authority until Hawaii became a state in 1959. As a condition of statehood, responsibility for the administration of the Hawaiian Homes Commission Act was transferred to the state of Hawaii. DHHL was established as the executive agency to administer the Hawaiian Home Lands program in order to develop affordable housing opportunities for native Hawaiian families. This program targets assistance to families at or below 80 percent of median income. In conjunction with loan programs such as the Federal Housing Administration's (FHA) section 247 program and HUD's section 184(a) program, Title VIII is successful in assisting low-income Hawaiian families with their housing needs.

Title VIII of NAHASDA was originally authorized for five years, through 2005, and has not been formally reauthorized since, although appropriations acts have continued to provide de facto one-year reauthorizations for the program.

This legislation would reauthorize Title VIII of NAHASDA through FY 2011. In addition, it would make two substantive changes to current law. First, H.R. 5851 would allow the use of HUD's section 184(a) guaranteed loans for refinancing in addition to construction. Giving Native Hawaiians access to Section 184(a) refinancing would continue to provide families homeownership opportunities. Although relatively new, this program has already proven effective with Native American tribes living on trust or restricted lands. This change would assist native Hawaiians who already own a home and those who would like to refinance to reduce interest rates or use equity for improvements to start up businesses.

Further, this bill would allow DHHL to become eligible for loan guarantees authorized under Title VI of NAHASDA. This program, modeled on the successful Community Development Block Grant program (CDBG), would allow DHHL to borrow or issue bonded debt with the security of the Federal Government, using the funding stream provided by HUD as collateral. The use of Title VI funding for continental Native Americans has expanded greatly, and

this change will provide a separate credit subsidy pool for DHHL, in order to avoid any competition for these resources. This program would allow native Hawaiians that want to finance eligible activities but are unable to secure financing without the assistance of the Federal guarantee.

The Committee understands that providing for greater access to capital markets on Native Hawaiian Home Lands should not come at the expense of capital access for Federally-Recognized Indian Tribes. Therefore, the Committee expects, at the discretion of the Appropriations Committee, that a separate credit subsidy for Title VI of NAHASDA shall be established and funded as necessary so as to provide a distinct credit subsidy for eligible recipients of NAHASDA under Title VIII.

HEARINGS

No hearings were held on this legislation.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 26, 2006, and ordered H.R. 5851, Hawaiian Homeownership Opportunity Act of 2006, favorably reported to the House by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken within conjunction with the consideration of this legislation. A motion by Mr. Oxley to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held hearings and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 5851, the Hawaiian Homeownership Opportunity Act of 2006, reauthorizes Title VIII of the Native American Housing Assistance and Self-Determination Act (NAHASDA) with the goal to provide low-income native Hawaiian families the opportunity for homeownership on Hawaiian home lands.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by

the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 29, 2006.

Hon. MICHAEL G. OXLEY,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5851, the Hawaiian Homeownership Opportunity Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Chad Chirico.

Sincerely,

ROBERT P. MURPHY,
(for Donald B. Marron, Acting Director).

Enclosure.

H.R. 5851—Hawaiian Homeownership Opportunity Act of 2006

Summary: H.R. 5851 would reauthorize the Native Hawaiian Housing Block Grant and Loan Guarantee programs and would authorize the appropriation of such sums as necessary for those programs for each of the fiscal years 2007 through 2011. In addition, the bill would reauthorize loans provided under Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 for fiscal years 2008 through 2011 and would expand eligibility to include the Department of Hawaiian Home Lands (DHHL).

CBO estimates that appropriation of the amounts necessary to implement H.R. 5851 would cost \$26 million over the 2007–2011 period. Enacting H.R. 5851 would not affect direct spending or revenues.

H.R. 5851 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would provide benefits to the state of Hawaii.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5851 is shown in the following table. The costs of this legislation fall within budget functions 600 (income security) and 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—					
	2006	2007	2008	2009	2010	2011
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Hawaiian Housing Programs						
Budget Authority/Authorization Level ¹	12	2	0	0	0	0
Estimated Outlays	4	4	2	2	2	1
Proposed Changes:						
Native Hawaiian Housing Block Grants						
Estimated Authorization Level	0	9	9	9	10	10
Estimated Outlays	0	*	1	2	4	6
Native Hawaiian Loan Guarantees						
Estimated Authorization Level	0	1	1	1	1	1
Estimated Outlays	0	1	1	1	1	1
Title VI Loan Guarantees						
Estimated Authorization Level	0	*	2	2	2	2
Estimated Outlays	0	*	2	2	2	2
Total						
Estimated Authorization Level	0	10	12	12	13	13
Estimated Outlays	0	1	4	5	7	9
Spending Under H.R. 5851 for Hawaiian Housing Programs						
Estimated Authorization Level	12	12	12	13	13	13
Estimated Outlays	4	5	6	7	8	10

¹The 2006 level is the amount appropriated in that year for Native Hawaiian Housing Block Grants, Native Hawaiian Housing Loan Guarantees, and Title VI Loan Guarantees.

Note: * = less than \$500,000.

Basis of estimate

Native Hawaiian housing block grants

Section 2 would authorize the appropriation of such sums as necessary for the Native Hawaiian Housing Block Grant program from 2007 through 2011. Program grants are used to assist affordable housing activities for eligible low-income Native Hawaiian families. In 2006, \$9 million was appropriated for this program. Assuming appropriation of similar amounts (and adjusting for anticipated inflation), CBO estimates that implementing this section would cost \$13 million through 2011.

Native Hawaiian housing loan guarantees

Section 3 would authorize the appropriation of such sums as necessary for the Native Hawaiian Housing Loan Guarantee program from 2007 through 2011. This program guarantees loans made to eligible Native Hawaiian families who reside on the Hawaiian Home Lands and who otherwise could not acquire private financing because of the unique legal status of the Hawaiian Home Lands. In 2006, \$1 million was appropriated for this program. Assuming appropriation of similar amounts (and adjusting for anticipated inflation), CBO estimates that implementing this section would cost \$5 million through 2011.

Title VI loan guarantees

Section 4 would extend the authorization of the Title VI loan guarantee program through 2011 and expand eligibility to include the DHHL. Such guarantees allow Native American Block Grant recipients to leverage their funding by pledging future grants as security for the repayment of a loan. A private lender provides the financing and the Department of Housing and Urban Development (HUD) provides a 95 percent guarantee of the principal and interest due in the case of a default. The size of the Title VI loans can be no larger than five times the grant recipient's annual grant

be no larger than five times the grant recipient's annual grant amount. HUD estimates this program currently has a subsidy rate of about 12 percent. In 2006, \$1.8 million for subsidy costs was appropriated for the program, which would support about \$15 million in loans. Assuming appropriation of similar amounts and adjusting for the expansion of eligibility to include DHHL, CBO estimates that implementing this section would cost \$8 million through 2011. CBO assumes that loans to DHHL that are paid off using Native Hawaiian Housing Block Grants would have a similar loan-to-grant ratio as those Title VI loans backed by Native American Block Grants.

There have been few losses to date in the Title VI program; however, repayment of these loans have been funded by federal grants. As a result, the actual cost to the government is borne by the grant program. It is uncertain what the cost of these loans would be in the absence of the grant program but it likely would be higher, perhaps substantially.

Intergovernmental and private-sector impact: H.R. 5851 contains no intergovernmental or private-sector mandates as defined in UMRA and would provide benefits to the state of Hawaii. The bill would allow certain state and tribal entities in the state of Hawaii to continue helping native Hawaiians with low incomes purchase, construct, or refinance homes.

Estimate prepared by: Federal Costs: Chad Chirico and Susanne S. Mehlman. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

COMPLIANCE WITH HOUSE RESOLUTION 1000

No “earmarks” within the meaning of House Resolution 1000 were created by this legislation.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

The short title of this bill is the Hawaiian Homeownership Opportunity Act of 2006.

Section 2. Authorization of appropriations for housing assistance

This section reauthorizes Title VIII of the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4221) for fiscal years 2007 through 2011.

Section 3. Loan guarantee for Native Hawaiian housing

This section reauthorizes the section 184(a) Native Hawaiian Housing Loan Guarantee Fund for fiscal years 2007 through 2011.

This section would also permit the use of section 184(a) guaranteed loans for refinancing, in addition to construction activities.

Section 4. Eligibility of Department of Hawaiian Home Lands for Title VI Loan Guarantees

This section would allow the Department of Hawaiian Home Lands (DHHL) to become eligible for loan guarantees authorized under Title VI of NAHASDA. This program, modeled on the HUD Community Development Block Grant program (CDBG), would allow DHHL to borrow or issue bonded debt with the security of the federal government, using the funding stream provided by HUD as collateral.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-
DETERMINATION ACT OF 1996**

* * * * *

**TITLE VI—FEDERAL GUARANTEES FOR
FINANCING FOR TRIBAL AND NATIVE
HAWAIIAN HOUSING ACTIVITIES**

SEC. 601. AUTHORITY AND REQUIREMENTS.

(a) **AUTHORITY.**—To such extent or in such amounts as provided in appropriations Acts, the Secretary may, subject to the limitations of this title (including limitations designed to protect and maintain the viability of rental housing units owned or operated by the recipient that were developed under a contract between the

Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937), and upon such terms and conditions as the Secretary may prescribe, guarantee and make commitments to guarantee, the notes or other obligations issued by Indian tribes or tribally designated housing entities with tribal approval, *or by the Department of Hawaiian Home Lands*, for the purposes of financing affordable housing activities described in section 202 *or 810, as applicable*, and housing related community development activity as consistent with the purposes of this Act.

* * * * *

(c) **LIMITATION ON OUTSTANDING GUARANTEES.**—No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the total outstanding notes or obligations of the issuer guaranteed under this title (excluding any amount defeased under the contract entered into under section 602(a)(1)) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to title III *or VIII, as applicable*.

* * * * *

SEC. 602. SECURITY AND REPAYMENT.

(a) **REQUIREMENTS ON ISSUER.**—To assure the repayment of notes or other obligations and charges incurred under this title and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe **[or housing entity]**, *housing entity, or Department of Hawaiian Home Lands* issuing such notes or obligations to—

(1) * * *

* * * * *

(3) demonstrate that the extent of such issuance and guarantee under this title is within the financial capacity of the tribe *or Department* and is not likely to impair the ability to use grant amounts under title I *or VIII, as applicable*, taking into consideration the requirements under section 203(b) *or 811(b), as applicable*; and

* * * * *

(b) **REPAYMENT FROM GRANT AMOUNTS.**—Notwithstanding any other provision of this Act—

(1) * * *

(2) grants allocated under this Act for an Indian tribe **[or housing entity]**, *housing entity, or the Department of Hawaiian Home Lands* (including program income derived therefrom) may be used to pay principal and interest due (including such servicing, underwriting, and other costs as may be specified in regulations issued by the Secretary) on notes or other obligations guaranteed pursuant to this title.

* * * * *

SEC. 603. PAYMENT OF INTEREST.

The Secretary may make, and contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of an Indian tribe **[or housing entity]**, *housing entity, or the Department of Hawaiian Home Lands* issuing notes or other obligations guaranteed under this title, to cover not to exceed 30 percent

of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the extent approved in appropriations Acts, assist the issuer of a note or other obligation guaranteed under this title in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

* * * * *

SEC. 605. LIMITATIONS ON AMOUNT OF GUARANTEES.

(a) * * *

(b) **AUTHORIZATION OF APPROPRIATIONS FOR CREDIT SUBSIDY.**—There are authorized to be appropriated to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees under this title such sums as may be necessary for each of fiscal years **[1997 through 2007]** *2007 through 2011*.

* * * * *

**TITLE VIII—HOUSING ASSISTANCE FOR
NATIVE HAWAIIANS**

* * * * *

SEC. 824. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Housing and Urban Development for grants under this title such sums as may be necessary for each of **[fiscal years 2001, 2002, 2003, 2004, and 2005.]** *fiscal years 2007, 2008, 2009, 2010, and 2011*.

**SECTION 184A OF THE HOUSING AND COMMUNITY
DEVELOPMENT ACT OF 1992**

SEC. 184A. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

(a) * * *

(b) **AUTHORITY.**—To provide access to sources of private financing to Native Hawaiian families who otherwise could not acquire housing financing because of the unique legal status of the Hawaiian Home Lands **[or as a result of a lack of access to private financial markets]**, the Secretary may guarantee an amount not to exceed 100 percent of the unpaid principal and interest that is due on an eligible loan under subsection (c).

(c) **ELIGIBLE LOANS.**—Under this section, a loan is an eligible loan if that loan meets the following requirements:

(1) * * *

(2) ELIGIBLE HOUSING.—

[(A) IN GENERAL.]—The loan will be used to construct, acquire, or rehabilitate not more than 4-family dwellings that are standard housing and are located on Hawaiian Home Lands for which a housing plan described in subparagraph (B) applies.

[(B) HOUSING PLAN.—A housing plan described in this subparagraph is a housing plan that—

[(i) has been submitted and approved by the Secretary under section 803 of the Native American Housing Assistance and Self-Determination Act of 1996; and

[(ii) provides for the use of loan guarantees under this section to provide affordable homeownership housing on Hawaiian Home Lands.]

(2) *ELIGIBLE HOUSING.*—*The loan will be used to construct, acquire, refinance, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on Hawaiian Home Lands.*

* * * * *

(j) HAWAIIAN HOUSING LOAN GUARANTEE FUND.—

(1) * * *

* * * * *

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of [fiscal years 2001, 2002, 2003, 2004, and 2005.] *fiscal years 2007, 2008, 2009, 2010, and 2011.*

* * * * *

